

Montana Teachers' Retirement System



Fact Sheet: 150 Day Break in Service

Who

All Teachers' Retirement System (TRS) members, and

All TRS employers including

- K-12 public schools,
- State agencies,
- Montana University System, and
- All other employers reporting to TRS

When

HB 78 was passed by the Montana legislature on April 11, 2013 and goes into effect on January 1, 2014.

What

A TRS member may not return to work, in any capacity, in a TRS reportable position until 150 calendar days following their date of termination of employment have passed.

- Exception: a retired member may be employed as a substitute teacher for a certified classroom teacher. This exception is for no more than 45 days during the 150 day break in service.
- Violation: if a retired member returns to work during the 150 day break in service,
 - They will be returned to active member status as of the date of their retirement.
 - Retirement benefits will be terminated.
 - Retirement benefits paid to the member must be repaid with interest.
 - The member and the employer must pay TRS all contributions required on any compensation earned for work during the break in service, with interest.

Why

While the IRS does not specify a particular period of time, they do require public pension plans to implement an unmistakable interval of time between a member's retirement date and their return to work as a retired member. Requiring a 150 day break in service meets this requirement for 'an unmistakable interval' allowing TRS to remain in compliance with IRS requirements.

Public pension plans around the U.S. have instituted breaks in service ranging from 30 days to a full calendar year. The initial proposal for HB 78 was 180 days and the final agreement in the legislature was 150 days. This 'unmistakable interval' shows the IRS that the member has fully retired from active service and has not simply taken their usual summer break.